

STATE OF MICHIGAN
VILLAGE OF SOUTH ROCKWOOD
ORDINANCE NO. 151
ABANDONED RESIDENTIAL PROPERTY REGISTRATION
AND MAINTENANCE

THE VILLAGE OF SOUTH ROCKWOOD ORDAINS:

Section 1 Purpose.

It is the purpose and intent of the Village of South Rockwood through the adoption of this ordinance, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties. It is an additional purpose of this ordinance to repeal and replace ordinance 146.

Section 2. Definitions.

For the purposes of this ordinance, certain words and phrases are defined as follows:

- A. "Abandoned vacant property" means a property that is:
1. Vacant and
 2. Is under a current complaint for foreclosure, notice of foreclosure, notice of forfeiture, complaint for forfeiture, pending tax sale, and/or properties that have been the subject of a foreclosure sale and any properties transferred under a deed in lieu of foreclosure and property returned to the mortgage holder or the land contract title holder.
 3. Any of the following
 - a. Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;
 - b. has one or more boarded up windows;
 - c. has utilities that are disconnected or not in use;
 - d. is not maintained in compliance with village codes and/or rules and regulations adopted for this ordinance;
 - e. is only partially completed and is not fit for human occupancy.
- B. "Accessible property" means a property that is accessible through a compromised/breached gate, fence, wall, etc.

C. "Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

D. "Agreement" means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.

E. "Assignment of rents" means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.

F. "Buyer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

G. "Dangerous building" means any building/structure that is in violation of any condition referenced in the Dangerous Building ordinance of the Village of South Rockwood.

H. "Days" means consecutive calendar days.

I. "Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the mortgagor to the holder of a mortgage or from the land contract purchaser to the land contract seller.

J. "Default" means the failure to fulfill a contractual obligation, monetary, or conditional.

K. "Distressed" means a property that is (1) under a current notice of default and/or notice of foreclosure sale, (2) under notice of forfeiture and complaint for forfeiture and/or (3) pending tax assessor's lien sale and/or (4) has been foreclosed upon by the mortgage holder, and/or (5) land contract seller has forfeited the rights of the land contract purchaser and/or has been conveyed to the mortgage holder or land contract seller via a deed in lieu of foreclosure or forfeiture

L. "Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

M. "Foreclosure" means the process by which a property placed as security for a real estate loan is sold at auction to satisfy the debt if the borrower defaults and by definition includes the forfeiture of a land contract by the land contract seller.

N. "Local" means within 40 road/driving miles distance of the subject property.

O. "Mortgage" means an instrument by which title to real estate is mortgaged as security for a real estate loan.

P. "Neighborhood standard" means those conditions that are present on a simple majority of properties within a 300-foot radius of an individual property. A property that is the

subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.

Q. “Out of area” means in excess of 40 road/driving miles distance of the subject property.

R. “Owner” means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property including a dwelling unit, mobile dwelling unit or vacant property and includes but is not limited to

1. Owner means every person, entity, service company property manager or real estate broker who alone or severally with others
2. one who has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise in any capacity including but not limited to agent, personal representative, trustee, or guardian or conservator of the estate of the legal title holder or
3. One who is a mortgagee or land contract purchaser of such property or
4. One who is an agent trustee or other person appointed by the courts and vested with possession or control of such property; or
5. One who is an officer or trustee of the association of unit owners of a condominium? each such person is bound to comply with the minimum standards as if he were the owner. however, this ordinance shall not apply to a condominium association created pursuant to state law to the extent that such association forecloses or initiates the foreclosure process for unpaid assessments due or owing to the association; or
6. One who is a trustee who holds owns or controls the mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

S. “Owner of record” means the person having recorded title to the property.

T. “Property” means any unimproved or improved real property or portion thereof, situated in the Village and includes the buildings or structures located on the property regardless of condition.

U. “Residential building” means any improved real property, or portion thereof, situated in the Village, designed, or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as “residential” whether or not it is legally permitted and/or zoned for such use.

V. “Secure” or “secured” means such measures as may be directed by the Village of South Rockwood Code Official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required. In

addition, “secure” or “secured” means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s). Secure includes that the pool if any shall be drained and protected so as to minimize danger to the public.

W. “Vacant” means a building/structure that is not legally occupied.

Section 3 Registration.

A. Any owner shall perform an inspection, to the extent permitted by law (or under the mortgage, of the property that is the security for the mortgage, upon default by the trustor,) within five (5) days after either filing a complaint for foreclosure if foreclosure is by judicial action, filing a complaint for forfeiture or publishing a notice of foreclosure if foreclosure is by advertisement.

If the property is found to be vacant or shows evidence of vacancy, it is, by this ordinance, deemed abandoned and the owner shall, within 10 days of the inspection, register the property with the Village of South Rockwood Code Official or his or her designee on forms provided by the Village.

B. If the property is occupied but remains in default it shall be inspected, to the extent permitted by law by the owner or his designee, monthly until (1) owner of record remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the owner shall, within 10 days of that inspection, register the property with the Village of South Rockwood Code Official head or his or her designee on forms provided by the Village.

C. The registration shall contain the name of the owner, the direct street/office mailing address of the owner (no P.O. boxes), a direct contact name and phone number for the owner and, in the case of a corporation or out-of-town mortgage company or land contract seller, the local property management company responsible for the security, maintenance, and marketing of the property. Registration fees will not be prorated.

D. An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due.

E. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the mortgage company involved in the foreclosure, the property is the subject of land contract forfeiture judgment and any properties transferred under a deed in lieu of foreclosure, forfeiture or sale. Such properties shall be

registered with the Village in accordance with the terms of this section upon transfer even if occupied at the time of the transfer.

F. Properties subject to this ordinance shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant.

G. Any person, firm, or corporation that has registered a property under this ordinance must report any change of information contained in the registration to the Village of South Rockwood Building Department within 10 days of the change.

Section 4. Maintenance requirements.

A. Vacant and abandoned properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned

B. The property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

C. Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

D. Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and moving of required landscape and removal of all trimmings.

E. Pools and spas shall be drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of Michigan and the Village of South Rockwood.

F. Adherence to this section does not relieve the owner of any obligations set forth in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.

Section 5. Security requirements.

- A. Properties subject to this section shall be secured so as not to be accessible to unauthorized persons.
- B. If the owner is out of the area, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.
- C. The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this ordinance.

Section 6. Additional authority.

In addition to the enforcement remedies established in the Village of South Rockwood Code of Ordinances, the Village of South Rockwood Code Official or his or her designee shall have the authority to require owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window, or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

Section 7. Fees.

The fee for registering an abandoned residential property shall be set by resolution of the Village of South Rockwood.

Section 8. Right of Entry.

If the owner has failed to secure a property and it has been secured by the Village, the Village and/or its contracted agent may conduct necessary inspections to assure compliance with the requirements of this Code and to determine if there are emergency or hazardous health and safety conditions in existence.

Section 9. Re-Occupancy.

An abandoned residential structure shall not be occupied until a Certificate of Occupancy has been issued by the Village, and all violations have been corrected in accordance with the applicable requirements of the Village of South Rockwood Code of Ordinances. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair. In addition, a Certificate of Occupancy shall not be issued until all outstanding costs, assessments and/or liens owed to the Village have been paid in full.

Section 10. Violation/Abatement.

- A. Violations of this ordinance shall be treated as a strict liability offense regardless of intent.

B. The Village may issue to the owner of record a Notice to Abate.

C. The Notice to Abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the Village may act to abate the violation if it is not abated by the owner within a reasonable time stated in the Notice, but which may not exceed thirty (30) days;
- (4) Notice that the cost of such action by the Village, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid; and
- (5) Notice that any refusal to allow the Village to abate an uncorrected violation shall be a separate violation under this Code.

Section 11. Authorization for Village Abatement.

Upon failure of an owner and owner of record to abate a violation as ordered in a Notice to Abate, the Village may abate the nuisance. This abatement may be performed by the Village, by a contract vendor, or by other means determined by the Village Council.

Section 12. Administrative Fees.

The fees necessary for the administration of this Article shall be established from time to time by resolution of the Village Council. Such administrative fees shall include the following:

- (1) Notice to Abate;
- (2) Search Warrant
- (3) Contact Request or Warning of Abatement Action;
- (4) Warning Letter;
- (5) Civil Infraction Preparation;
- (6) Additional Inspections;

Section 13. Charge to Owner.

When the Village has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by Village Council resolution, shall be billed to the property owner. Such billing shall be a personal debt of the owner to the Village, which may be assessed as a lien against the property, including interest thereon, until paid.

Section 14. Appeals.

Any person aggrieved by any of the requirements of this section may appeal to the Village Council of the Village of South Rockwood, provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, the requirements of this code are adequately satisfied by other means, or the strict application of any requirement of this code would cause an undo hardship.

Section 15. Penalty.

Violation of this Article is a civil infraction. A second similar violation for the same property shall be deemed a misdemeanor punishable by a fine in an amount less than One hundred (\$100.00) dollars and costs, 90 days in jail or both

Section 16

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Village hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 17

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

The Village Clerk is hereby ordered and directed to cause this ordinance to be published in a newspaper in general circulation in the Village.

Section 18

This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect upon publication.

Section 19

This ordinance repeals ordinance 146.

I, the undersigned, the qualified and acting Clerk of the Village of South Rockwood, Monroe County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance adopted by the Village Council of the Village of South Rockwood at a meeting held on the 3rd day of May 2010, the original of which is on file in my office.

Village Clerk

First reading: April 5, 2010

Second reading: April 19, 2010

Adopted: May 3, 2010

Published: May 8, 2010